

an importer during each calendar year starting January 1, 2002. The averaging period is January 1 through December 31 of each year.

(2) The annual average toxics value is calculated in accordance with § 80.825.

(e) *Deficit carryforward.* (1) A refinery or importer creates a toxics deficit, separately for reformulated gasoline and conventional gasoline, for a given averaging period, when—

(i) For conventional gasoline, its annual average toxics value is greater than the compliance baseline;

(ii) For reformulated gasoline and RBOB, combined, the annual average toxics value is less than the compliance baseline.

(2) In the calendar year following the year the toxics deficit is created, the refinery or importer shall:

(i) Achieve compliance with the refinery or importer toxics performance requirement specified in paragraph (a) of this section; and

(ii) Generate additional toxics credits sufficient to offset the toxics deficit of the previous year.

(f) *Credit carryforward.* (1) A refinery or importer generates toxics credits, separately for reformulated gasoline and conventional gasoline, for a given averaging period, when—

(i) For conventional gasoline, its annual average toxics value is less than the compliance baseline;

(ii) For reformulated gasoline and RBOB, combined, the annual average toxics value is greater than the compliance baseline.

(2) Toxics credits may be used to offset a toxics deficit in the calendar year following the year the credits are generated, provided the following criteria are met:

(i) Reformulated gasoline toxics credits are only to be used to offset a reformulated gasoline toxics deficit; conventional gasoline credits are only to be used to offset a conventional gasoline toxics deficit.

(ii) A refiner only offsets a toxics deficit at a refinery with toxics credits generated by that refinery.

(iii) Credits generated on an aggregate basis may only be used to offset a deficit calculated on an aggregate basis.

(iv) Credits used to offset a deficit from the previous year may not also be carried forward to the following year. Credits in excess of those used to offset a deficit from the previous year may be used to offset a deficit in the following year.

(v) Only toxics credits generated under this subpart may be used to offset a toxics deficit created under this subpart.

§ 80.820 What gasoline is subject to the toxics performance requirements of this subpart?

For the purpose of this subpart, all reformulated gasoline, conventional gasoline and RBOB, collectively called “gasoline” unless otherwise specified, is subject to the requirements under this subpart, as applicable, with the following exceptions:

(a) Gasoline that is used to fuel aircraft, racing vehicles or racing boats that are used only in sanctioned racing events, provided that:

(1) Product transfer documents associated with such gasoline, and any pump stand from which such gasoline is dispensed, identify the gasoline either as gasoline that is restricted for use in aircraft, or as gasoline that is restricted for use in racing motor vehicles or racing boats that are used only in sanctioned racing events;

(2) The gasoline is completely segregated from all other gasoline throughout production, distribution and sale to the ultimate consumer; and

(3) The gasoline is not made available for use as motor vehicle gasoline, or dispensed for use in motor vehicles, except for motor vehicles used only in sanctioned racing events.

(b) Gasoline that is exported for sale outside the U.S.

(c) Gasoline designated as California gasoline under § 80.845, and used in California.

(d) Gasoline used in American Samoa, Guam and the Commonwealth of the Northern Mariana Islands.

(e) Gasoline exempt per § 80.995.

(f) Gasoline exempt per § 80.1000.